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15 Attorneys for Movant The Bank of New York Mellon fka The Bank of New York as successor to  
16 JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through  
17 Cert, Series 2006-AR4

18 UNITED STATES BANKRUPTCY COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 OAKLAND DIVISION

21 In re ) Bk. No. 11-46365  
22 DAISY TAN PARRISH, )  
23 Debtor. ) CHAPTER 13  
24 ) R.S. No. LSR – 823  
25 )  
26 ) MOTION FOR RELIEF FROM  
27 ) AUTOMATIC STAY  
28 )  
29 ) Hearing-  
30 ) Date : December 10, 2014  
31 ) Time : 9:30 AM  
32 ) Place : U.S. Bankruptcy Court  
33 ) 1300 Clay Street, 2nd Floor  
34 ) Oakland, CA  
35 ) Courtroom 220

36 The Bank of New York Mellon fka The Bank of New York as successor to  
37 JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through  
38

1 Cert, Series 2006-AR4, a holder in due course, its assignees and/or successors, move the Court for  
2 relief from the Automatic Stay provided by 11 U.S.C. §362. This motion seeks an Order  
3 terminating the Automatic Stay of 11 U.S.C. §362 as to moving party (and the Trustee under the  
4 Deed of Trust securing moving party's claim) so that moving party (and its Trustee) may commence  
5 and continue all acts necessary to foreclose under the Deed of Trust secured by Debtor's property  
6 located at **324 Amber Avenue, Vallejo, California 94589**.

7 This Motion is brought pursuant to 11 U.S.C. §362(d)(1) for "cause" and due to the  
8 failure of Debtor to make required payments as set forth in the Declaration, attached hereto and  
9 incorporated herein by reference.

10 Nationstar Mortgage LLC servicer for The Bank of New York Mellon fka The Bank  
11 of New York as successor to JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-  
12 AR4, MTG Pass-Through Cert, Series 2006-AR4 has the right to foreclose by virtue of being the  
13 holder and/or owner of the note.

14 Debtor's failure to make required payments provides "cause" for relief from the  
15 Automatic Stay in accordance with the ruling of the Bankruptcy Appellate Panel in In re: Ellis, 60  
16 B.R. 432.

17 In addition, and in the event that this Court continues the Automatic Stay, Movant  
18 will seek adequate protection of its secured interest pursuant to 11 U.S.C. §§361 and 362, including  
19 a requirement that Debtor reinstates all past arrearages and immediately commence regular monthly  
20 payments.

21 Movant alleges that the commercially reasonable value of the subject Property is  
22 approximately \$177,000.00, as evidenced by Debtor's Schedules A and D filed with this Court, a  
23 copy of which is attached hereto and made a part hereof. Movant requests that this Court take  
24 judicial notice of the aforementioned Schedules pursuant to Federal Rule of Evidence Section 201.

25 Movant also seeks an Order terminating and vacating the Automatic Stay for all  
26 purposes as it pertains to Movant's interest in the subject real Property, including the prosecution of

1 appropriate foreclosure remedies, without the requirement of further notice or publication, except as  
2 may be required by state law.

3 Furthermore, Movant seeks attorneys' fees and costs incurred in bringing this  
4 Motion. Movant requests such fees pursuant to the Contract securing Movant's claim or pursuant to  
5 11 U.S.C. §506(b). Post-petition attorneys' fees and costs for the within motion may be added to  
6 the outstanding balance of the subject Note, pursuant to Travelers Casualty v. Pacific Gas and  
7 Electric Co., 549 U.S. 443 (2007), and as allowed under applicable non-bankruptcy law.

8 In addition, Movant requests such further relief as is just.

9 This Movant also seeks an Order waiving the 14-day stay described by Bankruptcy  
10 Rule 4001(a)(3).

11 This Motion shall be based on these moving papers, as well as the attached  
12 Declaration.

13 Responsive pleadings, points and authorities and declarations are not required, but  
14 may be filed, pursuant to Bankruptcy Local Rule 4001-1(f).

15 In the event neither Debtor, the Debtor's Counsel or the Trustee appears at a hearing  
16 on this motion, the Court may grant relief from the Automatic Stay permitting moving party to  
17 foreclose on the Debtor's property located at **324 Amber Avenue, Vallejo, California 94589** and  
18 obtain possession of such property without further hearing.

19 WHEREFORE, Movant prays judgment as follows:

20 1.) For an Order granting relief from the Automatic Stay, permitting this Movant to  
21 move ahead with foreclosure proceedings under Movant's Deed of Trust.

22 2.) For such Order regarding adequate protection of Movant's interest as this Court  
23 deems proper.

24 3.) For attorneys' fees and costs for suit incurred herein.

25 4.) For an Order waiving the 14-day stay described by Bankruptcy Rule 4001(a)(3).

26 5.) For an Order that, in addition to foreclosure, permits activity necessary to obtain  
27 possession of said collateral; therefore, The Bank of New York Mellon fka The Bank of New York

as successor to JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through Cert, Series 2006-AR4 is permitted to engage in loss mitigation activity, including short payoff, short sale and the obtaining of a deed-in-lieu of foreclosure including authorization to negotiate inferior liens. The Bank of New York Mellon fka The Bank of New York as successor to JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through Cert, Series 2006-AR4 is further permitted to send information regarding these loss mitigation options directly to the debtor.

6.) For such other relief as this Court deems appropriate.

PROBER & RAPHAEL, A LAW CORPORATION

DATED: 11/5/2014

By /s/ Melissa A. Vermillion  
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Attorney for Movant